

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
GREENVILLE DIVISION

Chavis Miller,	)	
	)	
Plaintiff,	)	
	)	Civil Action No. 6:23-3678-BHH
v.	)	
	)	<b><u>ORDER</u></b>
Perry Correctional Institution,	)	
	)	
Defendant.	)	
	)	

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This case was opened upon receipt of a motion requesting a temporary restraining order (“TRO”), filed by Plaintiff Chavis Miller (“Plaintiff” or “Miller”), a state prisoner. (ECF No. 1.) The matter was referred to a United States Magistrate Judge for preliminary review in accordance with 28 U.S.C. § 636(b)(1)(B) and Local Civil Rule 73.02(B)(2)(c), D.S.C.

On July 31, 2023, the Magistrate Judge entered a Report and Recommendation (“Report”) outlining the issues and recommending that Plaintiff’s motion for a TRO be denied. (ECF No. 5.) That same day, the Magistrate Judge also entered a proper form order advising Plaintiff that his case was not in proper form for service and giving him an opportunity to provide the necessary information and paperwork to bring the case into proper form. (ECF No. 6.) The order specifically warned Plaintiff that failure to provide the necessary information and paperwork within the timetable set forth may subject the case to dismissal. (*Id.* at 1.) The order also reminded Plaintiff to notify the clerk in writing of any change of address and warned that a failure to keep his address updated with the Court may lead to dismissal of the case. (*Id.* at 2-3.)

When Plaintiff did not respond to the proper order, on September 7, 2023, the Magistrate Judge entered a second proper form order, informing Plaintiff that his case was not in proper form for service and providing an additional opportunity for Plaintiff to bring his case into proper form. (ECF No. 11.) The second order again warned Plaintiff that the failure to provide the necessary information and paperwork within the timetable set in the order may subject the case to dismissal. (*Id.* at 1.) The order also reminded Plaintiff to

notify the clerk in writing of any change of address and warned that failure to keep his address updated with the Court may lead to dismissal of the case. (*Id.* at 3.)

To date, Plaintiff has not advised the Court of any changes to his address. Nor has he responded to the Magistrate Judge's proper form orders, and the time for responding has lapsed. Accordingly, Plaintiff has failed to prosecute this case and has failed to comply with an order of this Court.

Additionally, the Court notes that although Plaintiff filed objections to the Magistrate Judge's Report (ECF No. 8), Plaintiff's objections do not specifically object to the Magistrate Judge's finding that Plaintiff cannot show that he is likely to succeed on the merits, as required for the issuance of a TRO, because Plaintiff has not submitted a complaint with allegations against individual Defendants. Rather, as the Magistrate Judge properly noted, Plaintiff has sued Perry Correctional Institution, which is not a party amenable to suit under 42 U.S.C. § 1983. Accordingly, the Court finds Plaintiffs' objections unavailing.

After review, the Court hereby adopts the Magistrate Judge's Report (ECF No. 5) and overruled Plaintiff's objections (ECF No. 8), thereby denying Plaintiff's motion for a TRO (ECF No. 4.) Additionally, because Plaintiff has failed to bring this case into proper form or otherwise prosecute this case and comply with Court orders, the Court hereby dismisses this action, without prejudice, pursuant to Rule 41 of the Federal Rules of Civil Procedure. *See Link v. Wabash R.R. Co.*, 370 U.S. 626 (1962).

**IT IS SO ORDERED.**

/s/Bruce H. Hendricks  
United States District Judge

September 28, 2023  
Charleston, South Carolina

#### **NOTICE OF RIGHT TO APPEAL**

The parties are hereby notified of the right to appeal this Order within the time period set forth under Rules 3 and 4 of the Federal Rules of Appellate Procedure.